



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/166918

PRELIMINARY RECITALS

Pursuant to a petition filed June 26, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care, a hearing was held on August 13, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied petitioner's application for child care benefits due to being over the income limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Simone Johnson, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for child care benefits (CCB) on May 28, 2015.
3. Petitioner's household of 4 had a monthly gross income of \$3939.25 for the month of May 2015.

4. On June 30, 2015 the agency issued a notice of decision to petitioner stating that her application for CCB was denied because the household was over the income limit. Exhibit 1.

DISCUSSION

An applicant for CCB must meet the program's income guidelines to be financially eligible for Wisconsin Shares child care assistance. The income limit for new applicants, including cases that have closed for more than thirty days, is 185% federal poverty level (FPL) for the Assistance Group family size (but excludes foster parents, kinship care parents who receive kinship care payments and have a court order for the child's care, and subsidized guardians/interim caretakers in Milwaukee County. See *Wisconsin Shares Child Care Assistance Manual*, §1.6.2, available online at http://dcf.wisconsin.gov/childcare/wishares/pdf/chapter_1/chapter1.pdf.

The agency tested petitioner's income level against the 185% FPL. Petitioner and her husband are not foster parents, kinship care parents who receive kinship care payments and have a court order for the child's care, nor subsidized guardians/interim caretakers in Milwaukee County. It is undisputed that their household income as of May was \$3,939.25. The 185% limit for a household of four at the time the application was made was \$3,738.54. See <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

There is also no evidence that petitioner qualifies for any of the disregards in counting the gross income. Per the *Manual*, §1.6.11, I provide the following:

Income Disregards

Disregard repayments that are withheld from Social Security, Unemployment Compensation or other programs that do not base eligibility on income and assets.

Do not count the following income toward the child care gross income test:

Child Support Payments

Effective December 17, 2011, do not count court-ordered child support or family support payments if the aggregate amount paid to the household is \$1,250 or less per month. If the aggregate amount exceeds \$1,250 per month, the entire amount is counted as income for child care eligibility and co-payment.

Earned Income of Minor Dependents

Effective March 1, 2000, **do not** count earned income of minor **dependents** in a child care assistant group. This income is also not included for the determination of the family co-pay.

Earned Income Credit (EIC)

Do not count income received under the federal/state EIC, or payments made by an employer under the federal advanced EIC.

State and federal tax refunds and Homestead Credit Payments do not count as income.

Student financial aid received under a state or federal program do not count as income.

Scholarships used for tuition or books do not count as income.

Private grants do not count as income unless made available to the student as cash.

Foster Care Payment, Kinship Care Payment, Subsidized Guardianship, and Adoption Assistance

Do not count income received for Foster Care, Kinship Care, subsidized guardianships, or adoption assistance. This income is also not included for the gross income test or for the determination of the family copayment responsibility.

Loans

Loans are exempt as income, unless available for current living expenses. If available for current living expenses, count the loan as an asset, even if there is a repayment schedule.

Reverse Mortgage Loan Proceeds (1993 Wisconsin Act 88)

Treat payments made to a borrower as proceeds from a loan and not as income. Treat non-disbursed funds as equity in a borrower's residence and not as proceeds from a loan.

W-2 Employment Positions and Job Access Loans

Do not count payments or earnings from any W-2 Employment Position: Trial Jobs, W-2 Transitions, Community Service Jobs, or Job Access Loans.

In-Kind Income

Disregard any gain or benefit that is not in the form of money paid directly to the household; such as meals, clothing, housing, and garden produce.

Benefits for Student-Aged 18 Years Old

Disregard any income received under this program.

Reimbursements

Disregard money paid to the client to reimburse actual expenses incurred or paid or both. **Examples:**

1. Reimbursements or flat allowance or per diem for job or training related expenses. These may be for travel, uniforms and transportation to and from the job or training site, including travel expenses of migrant workers.
2. Reimbursements for a volunteer's out of pocket expenses incurred in the course of his/her work.
3. Medical reimbursements.

Gifts

Disregard cash gifts, such as for birthdays, graduation and Christmas.

Windfalls

Disregard any dollar amount earmarked and used for the purpose it was paid, like back medical bills from an accident or injury, funeral and cemetery costs and replacement or repairs. For medical services which can be provided only at a future date, disregard any amount earmarked for those services provided a signed agreement specifying:

1. Source and amount of the settlement.
2. Purpose for which it is earmarked.
3. It is held in its own account.
4. It is agreed to and understood that if all or part of the settlement is used for a purpose other than for what it is earmarked, that amount used will be considered available income and counted when determining eligibility and co-payments.

Education Programs:

- Higher Education Act of 1965 (PL 89-329).
- Employment Skills Advancement Program.
- All student loans and grants, unless the award letter specifically states the loan/grant is for child care purposes.
- Work Study Income. Do not count work study income received in calculating gross income or in determining the family copayment responsibility.

Having no evidence that the agency's income determination was wrong, I must uphold the determination. If the household income decreases, there is nothing prohibiting petitioner from reapplying for CCB to see if she is eligible for the CCB benefits going forward.

CONCLUSIONS OF LAW

The agency correctly denied child care benefits to petitioner for being over the income limit as of May 2015.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of August, 2015

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 27, 2015.

Milwaukee Enrollment Services
Child Care Benefits